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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,735	02/05/2004	Keith Johnson	8100-0001-1	6499

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EXAMINER
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STAIKOVICI, STEFAN

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/772,735		JOHNSON ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Stefan Staicovici		1732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 4/9/2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/5/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2/5/02;49/04</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities: in paragraph [0001], line 2, after "2002", --, now U.S. Patent No. 6,723,273 B2" should be inserted.

Appropriate correction is required.

### *Double Patenting*

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-3 and 16-34 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-23 of U.S. Patent No. 6,723,273 B2.

Regarding claims 1 and 32-34, Claims 1 and 21-23 of U.S. Patent No. 6,723,273 B2 teach the basic claimed process of transferring resin into reinforcing fiber material used in the manufacture of composite articles including, positioning at least one layer of said reinforcing fiber material in a mold, positioning at least one port at a location disposed for communicating at

least one of resin and a vacuum pressure to said reinforcing fiber material, positioning a flow media in said mold for improved resin distribution to said reinforcing fiber material, applying/spraying a sealant layer in liquid form over said reinforcing fiber material, curing said sealant layer to form an airtight chamber encapsulating said reinforcing material between said cured sealant layer and said mold and applying vacuum pressure to said airtight chamber for drawing resin through said reinforcing fiber material. It is noted that that Claims 1 and 21-23 of U.S. Patent No. 6,723,273 B2 are drawn to a "fiber reinforcing material" whereas claims 1 and 32-34 of the instant application are drawn to the broader limitation of a "reinforcing material." However, since a "fiber reinforcing material" is a "reinforcing material" it is submitted that it would have been obvious for one of ordinary skill in the art to have provided a "reinforcing material" in the process of Claims 1 and 21-23 of U.S. Patent No. 6,723,273 B2 because a "fiber" reinforcing material is a reinforcing material.

In regard to claims 2-3, claims 2-3 of U.S. Patent No. 6,723,273 B2 teach all the claimed limitations since claims 2-3 of U.S. Patent No. 6,723,273 B2 are an exact recitation of claims 2-3 of the instant application.

Specifically regarding claims 16-31, claims 5-20 of U.S. Patent No. 6,723,273 B2 teach all the claimed limitations since claims 5-20 of U.S. Patent No. 6,723,273 B2 are an exact recitation of claims 16-31 of the instant application.

4. Claims 4-7 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-23 of U.S. Patent No. 6,723,273 B2 in view of Fox *et al.* (US Patent No. 4,188,314).

Claims 1-23 of U.S. Patent No. 6,723,273 B2 teach the basic claimed process as described above.

Regarding claims 4-7, although claims 1-23 of U.S. Patent No. 6,723,273 B2 teach only a fiber reinforcing material, the use of glass flakes as a reinforcing material is well known to be an alternative equivalent to glass fiber reinforcement as evidenced by Fox *et al.* ('314) (see col. 3, line 67 through col. 4, line 7). Hence, it would have been obvious for one of ordinary skill in the art to have provided a glass flake reinforcing material as an equivalent alternative to glass fiber reinforcing material in the process of claims 1-23 of U.S. Patent No. 6,723,273 B2 because flakes are an equivalent alternative to fibers as a reinforcing material as taught by Fox *et al.* ('314) and also due to economic considerations such as cost and aesthetic advantages that flakes provide.

5. Claims 10-11 and 14-15 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-23 of U.S. Patent No. 6,723,273 B2 in view of Blount (US Patent No. 4,769,437).

Claims 1-23 of U.S. Patent No. 6,723,273 B2 teach the basic claimed process as described above.

Regarding claims 10-11 and 14-15, although claims 1-23 of U.S. Patent No. 6,723,273 B2 teach only a fiber reinforcing material, the use of metallic wires (rods), foams or skeletons

(tubes) as a reinforcing material is well known to be an alternative equivalent to fiber reinforcement as evidenced by Blount ('437) (see col. 7, lines 13-18). Hence, it would have been obvious for one of ordinary skill in the art to have provided metallic wires (rods), foams or skeletons as reinforcing material as an equivalent alternative to fiber reinforcing material in the process of claims 1-23 of U.S. Patent No. 6,723,273 B2 because metallic wires (rods), foams or skeletons are equivalents alternative to fibers as a reinforcing material as taught by Blount ('437) and also due to economic considerations such as cost and aesthetic advantages that metallic wires (rods), foams or skeletons provide.

6. Claims 8-9 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-23 of U.S. Patent No. 6,723,273 B2 in view of Parodi *et al.* US Patent No. 5,650,477).

Claims 1-23 of U.S. Patent No. 6,723,273 B2 teach the basic claimed process as described above.

Regarding claims 8-9, although claims 1-23 of U.S. Patent No. 6,723,273 B2 teach only a fiber reinforcing material, the use of a metallic tape as a reinforcing material is well known to be an alternative equivalent to fiber reinforcement as evidenced by Parodi *et al.* ('477) (see col. 16, line 64 through col 17, line 5). Hence, it would have been obvious for one of ordinary skill in the art to have provided a metallic tape as a reinforcing material as an equivalent alternative to fiber reinforcing material in the process of claims 1-23 of U.S. Patent No. 6,723,273 B2 because a metallic tape is an equivalent alternative to fibers as a reinforcing material as taught by Parodi *et*

*al.* ('477) and also due to economic considerations such as cost and aesthetic advantages that a metallic tape provides.

7. Claims 12-13 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-23 of U.S. Patent No. 6,723,273 B2 in view of McCorsley, III (US Patent No. 3,993,828).

Claims 1-23 of U.S. Patent No. 6,723,273 B2 teach the basic claimed process as described above.

Regarding claims 12-13, although claims 1-23 of U.S. Patent No. 6,723,273 B2 teach only a fiber reinforcing material, the use of a polymeric film is well known to be an alternative equivalent to fiber reinforcement as evidenced by McCorsley, III ('828) (see col. 1, lines 30-33). Hence, it would have been obvious for one of ordinary skill in the art to have provided a polymeric film as a reinforcing material as an equivalent alternative to a glass fiber reinforcing material in the process of claims 1-23 of U.S. Patent No. 6,723,273 B2 because a polymeric film is an equivalent alternative to glass fibers as a reinforcing material as taught by McCorsley, III ('828) and also due to economic considerations such as cost and aesthetic advantages that a polymeric film provides.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefan Staicovici, Ph.D. whose telephone number is (571) 272-1208. The examiner can normally be reached on Monday-Friday 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael P. Colaianni, can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Stefan Staicovici, PhD



Primary Examiner

7/3/04

AU 1732

September 3, 2004